



United States
Department of
Agriculture

Office of the
Assistant Secretary
for Administration

ACQUISITION OPERATING PROCEDURE (AOP)

Office of Procurement
and Property
Management

Procurement
Operations Division

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FROM:

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JUL 06 2011

SUBJECT: AOP No. 4: Ratification of an Unauthorized Commitment

◆ **PURPOSE:** This Acquisition Operating Procedure is to provide guidance for the ratification of an unauthorized commitment. This procedure does not encourage such commitments being made by Government personnel but outlines a process for the review of such actions after-the-fact, if there is appropriate rationale. The Federal and Agriculture regulations establish that the Chief of the Contracting Office has the authority to ratify an unauthorized commitment.

◆ **REVISIONS:** Changed the Ratifying Official and dollar threshold, and rephrased and renumbered items. This AOP replaces AOP No. 4, dated June 10, 2009.

◆ **AUTHORITIES:** Federal Acquisition Regulation 1.602-3 and Agriculture Acquisition Regulation 401.602-3, Ratification of Unauthorized Commitments.

Ratifying Official

Head of the Contracting Activity (HCA)

Dollar Threshold

All dollar amounts

◆ **PROCESS:** When the contracting staff learn that an unauthorized commitment has resulted from the actions of a Government Official:

- a) The appropriate Contracting Office after receipt of the unauthorized commitment will maintain a log with an assigned control number for each Unauthorized Commitment.
- b) The Contracting Officer (CO) will send the "Ratification of an Unauthorized Commitment," (Attachment 1) to the individual responsible for the unauthorized commitment.
- c) The Individual responsible for the unauthorized commitment must complete the "Ratification of an Unauthorized Commitment," and must ensure the appropriate Budget Official and Director of the Division signatures are obtained prior to sending the documents to the CO.

- d) The CO will ensure the accuracy and completeness of the information in the Ratification of an Unauthorized Commitment, and if proper, may recommend the action to the Ratifying Official for review.
- e) The Ratifying Official may approve or disapprove the unauthorized commitment.
- f) The Contracting Office will maintain a copy of the approved/disapproved Unauthorized Commitment by the Ratifying Official in the contract and/or official office file.

Control #: _____
(Contracting office assigns)

Request for Ratification of an Unauthorized Commitment

This action is the result of an unauthorized commitment as defined in the Federal Acquisition Regulation (FAR) 1.602-3, and Agriculture Acquisition Regulation 401.602-3, Ratification of Unauthorized Commitments.

1. Nature of Action: _____
(Explain how the unauthorized commitment occurred and describe the supplies/services rendered by the vendor)

2. Name of Vendor: _____
(List the vendor's name and address that provided the supplies/services)

3. Price or Costs: _____
(List the dollar amount of the supplies/services)

4. Fair & Reasonableness: _____
(Explain how the agreed price or costs was determined to be fair and reasonable)

5. Competition Effort: _____
(Explain how the vendor was selected and provide a list of other vendors that were considered to provide the supplies/services)

6. Contracting Process: _____
(Explain why the normal contracting procedures were not followed requiring an approved requisition be sent to the contracting office and a valid contract to be issued by the Contracting Officer prior to obtaining the supplies/services)

7. Date Accepted: _____
(List the date the supplies/services were accepted by the Government)

8. Bona Fide Need: _____
(Explain why the Government had a bona fide need for the supplies/services)

9. Benefits: _____
(Explain the benefit(s) that the Government received from the supplies/services received)

10. Funds Availability:

(List the approved requisition number that shows funds are still available for the unauthorized commitment)

11. Preventive Actions:

(Explain actions taken by the Supervisor to prevent recurrence of unauthorized commitments by this individual)

12. Other Supporting Facts:

(Provide any other pertinent facts, e.g., invoice)

SUBMITTED FOR REVIEW AND APPROVAL:

- I certify that funds were available at the time of the unauthorized comments and funds are available to process the ratified unauthorized commitment.

Signature of Funds/Budget Official *Title* *Date*

- Based on the facts and circumstances, we determined the information above to be accurate and complete.

Signature of Responsible Person *Date* *Signature of Director Division* *Date*

Title

CONTRACTING OFFICER’S DETERMINATION:

After review of the facts and circumstances that lead to the unauthorized commitment, I have determined the circumstances leading up to this action have been satisfactorily explained, procedures to prevent reoccurrence is sufficient, a resulting contract would have been proper, the price is fair and reasonable based on _____ (*explain determination*) _____, there appears to be no conflicts of interest, no laws violated, and the vendor is not debarred or ineligible for award. Attach comments if the action will not be recommended for review by the Ratifying Official.

Contracting Officer *Date*

GENERAL COUNSEL (*if applicable*)

Approved Disapproved Approved Subject to the attached conditions:

Legal *Date*

DECISION OF THE RATIFYING OFFICIAL:

____ Approved:
____ Disapproved:
____ Approved Subject to the listed conditions:

Head of Contracting Activity (HCA) *Date*